

FISCAL AND REGULATORY IMPACT ANALYSIS
Rules Governing Five Percent of the Annual Community Services Block Grant Funding

Date: October 7, 2014

Agency: NC DHHS, Division of Social Services – Economic and Family Services Section

Action Requested: Amend:
10A NCAC 97B .0401 GENERAL PROVISIONS
10A NCAC 97B .0402 CITIZEN PARTICIPATION IN THE APPLICATION PROCESS
10A NCAC 97B .0403 CITIZEN PARTICIPATION IN THE PROGRAM
AMENDMENT PROCESS
10A NCAC 97C .0104 DEFINITIONS
10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS
10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS
10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF PRIVATE
GRANT RECIPIENTS
10A NCAC 97C .0111 CITIZEN PARTICIPATION

Agency Contact: Glenda Pearce - Rulemaking Coordinator - Telephone Number: (919) 527-6425

Statutory Authority: G.S. 143B-153; 42 USC 9907

Summary of Impact:

State Impact:	Cost: \$300,000 in SFY2015; \$480,000/ year thereafter
Local Impact:	None
Private Impact:	Benefit: \$300,000 in SFY 2015; \$480,000/ year thereafter
Substantial Economic Impact:	No

Effective Date: February 1, 2015 (earliest)

I. Necessity, Purpose and Summary of Impact

The NC DHHS Division of Social Services is unable to contract and expend the full amount of the Community Services Block Grant (CSBG) allocation due to specifications of 10A NCAC 97C .0108. As a result, North Carolina's low-income residents do not have access to all potential benefits afforded through the Community Services Block Grant.

The rule requires 5% of the annual Community Services Block Grant allocation under 10A NCAC 97C .0108(a)(3) to be allotted to Limited Purpose Agencies. More specifically, the Division is to allot "each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986." Three of the seven agencies funded in federal fiscal year 1986 are no longer in existence. As a result, the Division of Social Services would be unable to contract about \$300,000 (up to a maximum of

\$722,795) in state fiscal year 2014-15, more than half of the 5% of CSBG funds allocated to Limited Purpose Agencies, and an estimated \$480,000 each year thereafter. North Carolina reverted \$4.86M and \$2.17M of CSBG funds for federal fiscal year 2011 and FFY 2012 (respectively) due to not expending 100% of the allocation within the allowable timeframe. A portion of that reverted was due to the current limitations of 10A NCAC 97C .0108(a)(3).

The NC DHHS Division of Social Services is proposing amendments to eight rules in order to contract 100% of the annual Community Services Block Grant allocation, minimize the amount of funds reverted to the Federal Government and maximize 5% of the annual allocation by aligning state rules with all allowable purposes specified in 42 U.S.C. 9907, the “Community Opportunities, Accountability and Training and Educational Services Act of 1998” (COATES Act).¹ Further, the proposed amendments would update the rule to be consistent with the federal provision that allows the carry forward of funds and would eliminate the mandate of funding Limited Purpose Agencies. See proposed rule text in Appendix I.

Table 1 below presents a summary of the estimated impacts that would result from the proposed amendments.

Table 1. Impact Summary

	SFY 2014-15	SFY 2015-14	SFY 2016-17	SFY 2017-18	SFY 2018-19
<i>State Impact</i>					
State Disbursement of Federal Funds	\$300,000	\$481,452	\$480,000	\$480,000	\$480,000
Opportunity Cost of Staff Time	Unquantified	Unquantified	Unquantified	Unquantified	Unquantified
<i>NPV of Costs</i> (Mil.\$)	<i>\$1.93</i>				
<i>Private Impact</i>					
Private/ Non-Profit Receipt of Funds	\$300,000	\$481,452	\$480,000	\$480,000	\$480,000
Public Benefits from Activities Funded with CSBG	Unquantified	Unquantified	Unquantified	Unquantified	Unquantified
<i>NPV of Benefits</i> (Mil.\$)	<i>\$1.93</i>				
Aggregate Total Impact (Mil.\$)	\$0.60	\$0.96	\$0.96	\$0.96	\$0.96

II. Federal Authority:

42 U.S.C. 9907, Section 675C of the COATES Act, specifies not less than 90% of the funds be made available to eligible entities and not more than 5% of funding to administrative purposes, including monitoring efforts. According to items (b)(1) (A-H) of 42 U.S.C. 9907, if a state uses less than 100% of the grant for funding eligible entities and administrative purposes, the remaining portion of the allocation may be used for activities that include:

- (A) “providing training and technical assistance to those entities in need of such training and assistance;
- (B) coordinating State-operated programs and services, and at the option of the State, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate

¹ 42 U.S.C. 9907. “Uses of funds.” <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap106-sec9907.pdf>

- employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;
- (C) supporting statewide coordination and communication among eligible entities;
- (D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;
- (E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;
- (F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;
- (G) supporting State charity tax credits as described in subsection (c); and
- (H) supporting other activities, consistent with the purposes of this subtitle.”

III. Summary of Proposed Changes:

10A NCAC 97B .0401-.0403

Rule 10A NCAC 97C .0111 currently specifies the public review requirements for agencies funded under Rule 10A NCAC 97C .0108 (a)(3) be met by submitting a copy of their plan to the State Clearinghouse, Department of Administration for review. The State Clearinghouse is the State Environmental Review Clearinghouse, which has a stated purpose that is no longer consistent with the use of Community Services Block Grant funding. The proposed changes to the 97B rules would make the rules specifically apply to eligible entities funded under Rule 10A NCAC 97C .0108 (a)(1). Agencies funded under Rule 10A NCAC 97C .0108 (a)(3) would meet requirements through submitting a copy of their plan to a review body established by the Division.

10A NCAC 97C .0104

The proposed changes to 10A 97C .0104 align the definitions with the proposed changes to 10A 97C .0108 and 97C .0106, which address the current limitations related to 5% of Community Services Block Grant funds made available under Section 675C (b)(1)(A-H) of the COATES Act being fully allocated/ expended.

10A NCAC 97C .0106

The proposed change eliminates the current limitation of 5% of Community Services Block Grant funds made available under Section 675C (b)(1)(A-H) from being specific to limited purpose agencies or organizations serving seasonal or migrant farmworkers. The proposed rule expands eligibility to organizations that address causes and effects of poverty in North Carolina, which does not exclude limited purpose agencies nor seasonal migrant farmworkers.

10A NCAC 97C .0108

The proposed change allows 5% of the Community Service Block Grant allocation to be used for purposes in 42 U.S.C. 9907 Section 675C (b)(1)(A-H) of COATES Act. The change addresses the inability to allocate the full amount of funding due to current specifications, updates the rule to be consistent with the longtime federal allowance for funds to be carried forward, eliminates sole sourcing to Limited Purpose Agencies, and requires unexpended funds for prior grants be allocated to eligible entities.

10A NCAC 97C .0109

The proposed change for this rule is to clarify the tripartite board requirement is specific to agencies funded under Rule 10A NCAC 97C.0108(a)(1), which is consistent with the requirement under the Community Opportunities, Accountability and Training and Education Services Act of 1998. Agencies funded under Rule 10A NCAC 97C .0108(a)(3) would not be subject to the tripartite board requirement. The change would address a current limitation which imposes tripartite board requirements on agencies funded under Rule 10A NCAC 97C .0108 (a)(3) that is not required under the COATES Act.

10A NCAC 97C .0111

This rule currently specifies Limited Purpose Agencies have to meet the public review requirements by submitting a copy of their plan to the State Clearinghouse, Department of Administration for review. The State Clearinghouse is the State Environmental Review Clearinghouse, and has a stated purpose that is no longer consistent with the use of Community Services Block Grant funding. Proposal for this rule is to achieve public review requirements for agencies funded under Rule 10A NCAC 97C .0108 (a) (3) through submission of a copy of their plan to a review body established by the Division.

IV. Economic Analysis

The proposed rule amendments would allow the Division of Social Services to make available up to an additional \$722,795 in federal funds in SFY 2014-15 and about \$480,000 each fiscal year thereafter for purposes specified in items (b)(1)(A-H) of Section 675 C the COATES Act (42 U.S.C. 9907). While a maximum of \$722,795 could be made available in this fiscal year, because the rule change may not take effect before February 1, 2015, the Division assumed it would be able to award about \$300,000, in the last five months of this state fiscal year as a result of the change.

The numbers above were derived based on \$ 24,891,916 total available funds in SFY 2014-15 and \$16,580,450 allocation for SFY 2016-19. See further explanation in Cost Estimates subsection.

State Government: Although these are federal funds, they are subject to the North Carolina State Budget Act and, for the purpose of this fiscal note, treated as an impact on the State through the administering entity – Department of Health and Human Services. Therefore, this rule change would increase the State expenditures of Community Services Block Grant funds through contracts with eligible organizations. The proposed change would not result in additional projected state costs that would require an additional allocation. The Division of Social Services staff would need to spend more time on allocating the additional funds and monitoring those grants; however, the Division is unable to estimate the value of the opportunity cost of additional staff time. The proposed change would not result in additional projected state costs that would require an additional allocation.

Private Sector Entities: While this would be a cost to the state, it would be an equal benefit to the eligible organizations, which would then be able to pursue more activities that would result in additional benefits to the public. Currently, Limited Purpose Agencies and the North Carolina Commission of Indian Affairs are specified as agencies to receive the 5% discretionary funding. The proposed amendment opens funding to organizations that address the causes and effects of poverty in North Carolina. This includes Community Action Agencies and entities providing services related to capacity building activities, training and technical assistance, staff training and corrective actions that address poverty. The funding would likely be made available through Request For Proposal process which would not preclude existing Limited Purpose Agencies or the North Carolina Commission of Indian Affairs from applying. Based on current needs, the Division anticipates the funding made available through proposed amendment being contracted to non-profit agencies with no more than 40% of the 5% discretionary amount being awarded to a single entity.

Individuals and Families: Based on the 2012 Small Area Income Poverty Estimates, there are 1,706,255 individuals living in poverty across North Carolina. The amended rules would support more funding being made available to agencies addressing poverty in North Carolina.

Federal Government: The change would also impact the federal government as less funds would be reverted back.

A. Cost Estimates

Table 2 below presents allocations and expenditures for agencies funding under 10A NCAC 97C .0108 (a)(3) between SFY 2009-10 and 2012-13. Note, the Division was limited to allotting 78% of funds available between SFY 2009-10 and SFY 2011-12 because only five of the seven agencies that received funds in federal fiscal year 1986 remained in existence. The amount the Division was able to allot decreased in SFY 2012-13 to 41.6% because only four of the seven agencies that received funds in federal fiscal year 1986 remained in existence. The Division has not finalized SFY 2013-14 data and it is not included in the analysis. The figures are likely similar to SFY 2012-13.

Table 2 also demonstrates that of the funds the Division is able to allot, agencies expended over 95% of the funds contracted between SFY 2009-10 and SFY 2012-13

Table 2. Baseline Allocation and Expenditure

Baseline Allocation and Expenditure	SFY 2009-10		SFY 2010-11		SFY 2011-12		SFY 2012-13	
	\$	%	\$	%	\$	%	\$	%
CSBG 5% Allocation	\$913,155		\$912,268		\$913,428		\$913,428	
Contracted	\$712,261	78.0%	\$711,569	78.0%	\$712,474	78.0%	\$379,985	41.6%
Expended	\$682,156	74.7%	\$708,996	77.7%	\$705,124	77.2%	\$370,812	40.6%
% of Contracted Funds Expended	95.77%		99.64%		98.97%		97.59%	
Not Allotted Due to Rule .0108	\$200,894	22.0%	\$200,699	22.0%	\$200,954	22.0%	\$533,443	58.4%
Not Expended	\$230,999	25.3%	\$203,272	22.3%	\$208,304	22.8%	\$542,616	59.4%

(Source: Economic Opportunity Allocation Sheets and North Carolina Community Services Block Grant Information System Survey)

Table 3 below presents the allocation breakout for the close to \$25 million in CSBG funds that North Carolina has available in this fiscal year. Note, the SFY 2014-15 allocation includes unexpended carry-forward funds from prior period allocations that have been contracted for expenditure within the allowable federal period. Based on the CSBG Amended State Plan, the State can award close to \$1.25 million to Limited Purpose Agencies.

Table 3. SFY 2014-15 Annual Allocation Breakout

Distribution Category	% Distribution	SFY 2014-15 Allocation
Eligible Entities	90%	\$22,402,724
Limited Purpose Agencies/ Discretionary	5%	\$1,244,596
State Administration	5%	\$1,244,596
Total	100%	\$24,891,916

(Source: North Carolina SFY 14-15 Community Services Block Grant Amended State Plan)

Table 4 shows a more detailed allocation of this \$1.25 million in SFY 2014-15 by grantee. Based on this allocation, the Division estimates that an additional maximum of \$722,795 would be made available in discretionary awards to entities that meet the requirements in Section 675C (b)(1)(A-H) of the COATES Act this fiscal year as a result of the proposed rule change. As mentioned above, the earliest the proposed rules can come into effect is February 1, 2015. Given that the Division does not have the necessary data to estimate how much of

the \$722,795 it would be able to award in the last 5 months of this state fiscal year, it assumed that about \$300,000 (or 5/12th) of the total available funds would be awarded between February 1 and June 30 of 2015.

Table 4. SFY 2014-15 Discretionary Allocations

GRANTEE	ALLOCATION	SERVICES/PROJECTS
Telamon, Inc.	\$158,633	Education: provides services to assist youth of migrant and seasonal farmworkers ages 16-24 with remaining in high school or attaining their General Education Diploma (GED).
The Affordable Housing Group of North Carolina	\$190,423	Housing: provides technical assistance to community-based organizations for the purpose of developing or restoring safe/affordable housing. Provides Housing Counseling to community-based organizations.
Western Economic Development Organization	\$119,481	Employment: provides marketing services to increase the income of residential substance abuse program participants.
North Carolina Commission of Indian Affairs	\$53,264	Education: provides services to low-income American Indian students to assist them with remaining in college and maintaining a minimum Grade Point Average (GPA) of 2.0.
<i>Maximum Available Discretionary</i>	<i>\$722,795</i>	NC Administrative Code review needed to determine specific use of funds.
Total	\$1,244,596	

(Source: North Carolina SFY 14-15 Community Services Block Grant Amended State Plan)

Table 5 presents the annual allocation breakout for SFY 2015-16 projected by the Division. Out of the more than \$16.5 million the federal government is expected to make available to the State in SFY 2015-16, the state would be able to allocated more than \$0.8 million in discretionary awards. Based on projected allocations to Limited Purpose Agencies of this \$0.8 million, the Division estimates that another close to \$0.5 million could be make available to other entities that meet the requirements in Section 675C (b)(1)(A-H) of the COATES Act, as shown in Table 6 below.

Table 5. SFY 2015-16 Projected Annual Allocation Breakout

Distribution Category	% Distribution	SFY 2015-16 Projected Allocation
Eligible Entities	90%	\$14,922,404
Limited Purpose Agencies/ Discretionary	5%	\$829,023
State Administration	5%	\$829,023
Total	100%	\$16,580,450

(Source: North Carolina SFY 14-15 Community Services Block Grant Amended State Plan)

Table 6. SFY 2015-16 Projected Discretionary Allocations

GRANTEE	SFY 2015-16 PROJECTED ALLOCATION	SERVICES/PROJECTS
Telamon, Inc.	\$105,665	Education: provides services to assist youth of migrant and seasonal farmworkers ages 16-24 with remaining in high school or attaining their General Education Diploma (GED).
The Affordable Housing Group of North Carolina	\$126,840	Housing: provides technical assistance to community-based organizations for the purpose of developing or restoring safe/affordable housing. Provides Housing Counseling to community-based organizations.
Western Economic Development Organization	\$79,586	Employment: provides marketing services to increase the income of residential substance abuse program participants.
North Carolina Commission of Indian Affairs	\$35,479	Education: provides services to low-income American Indian students to assist them with remaining in college and maintaining a minimum Grade Point Average (GPA) of 2.0.
<i>Maximum Available Discretionary</i>	<i>\$481,452</i>	NC Administrative Code review needed to determine specific use of funds.
Total	\$829,023	

(Source: North Carolina FY 14-15 Community Services Block Grant Amended State Plan)

At this point the Division does not have projections for the amount of discretionary awards (5% of the CSBG) that it would receive from the federal government in the next few years. Given that in the four years prior to this fiscal year, the amount of CSBG funds from the federal government have stayed fairly constant (see Table 2 above), the Division assumed that the amount of additional discretionary awards the Division would be able to make as a result of the rule change would be similar to that projected for SFY 2015-16, i.e. \$480,000.

The proposed rule amendments would not result in net expected costs to the State. 10A NCAC 97C .0108 specifies 5% of the Community Services Block Grant annual allocation to be used by the Division for administration of the program. While the Division anticipates increased responsibilities in administering the funds associated with the proposed amendment to 10A NCAC 97C .0108, currently the Division does not foresee the need to exceed this allotted amount for administration or the need for additional staff specific to these efforts. There would be, however, an opportunity cost associated with the additional time staff would have to spend in awarding the additional funds and monitoring grantees. Based on best professional judgment, the Division estimates that staff would spend an additional 9 hours to review each application and execute the contract. The associated opportunity cost for staff time to review an additional application is estimate to be about \$290 (based on an hourly total compensation, which includes salary and benefits, of about \$32). It is unclear how many additional applications the Division would have to review; however, the Division anticipates awarding between 3 and 10 subgrantees through the 5% discretionary funding if the proposed amendments are approved. Additional time would be spent by staff for review and approval by the Division and Department.

B. Expected Benefits

The proposed amendment aligns North Carolina Community Services Block Grant 5% discretionary funding with the maximum available uses under the federal authority (42 U.S.C. 9907). In collaboration with local, state and federal partners NC DHHS Division of Social Services can identify and target priority poverty elimination needs and strategies during the bi-annual Community Services Block Grant State Plan process. Additional benefits to be realized through awarding the available funding (about \$300,000 in SFY 2014-15 and about \$480,000 years thereafter) may include, but are not limited to: supporting employment with contracted entities; low-income families achieving outcomes aligned with self-sufficiency, employment, education, income

management, housing, emergency services, nutrition and health; increased provision of training and technical assistance; increased capacity to implement federal priorities such as organizational standard and sound performance management practices; and support local agencies leveraging additional resources to support low-income families and communities.

Consistent with the 2014-2015 Community Services Block Grant Plan, the Division anticipates funding the four current limited purpose agencies at the Federal Fiscal Year 1986 percentage of funding through State Fiscal Year 2015-2016. The Division anticipates awarding between 3 and 10 subgrantees through the 5% discretionary funding if the proposed amendments are approved. The proposed amendment specifies no more than 40% of the total available funds under 10A NCAC 97C .0108 (a)(3) be made available to a single entity.

V. Alternatives Considered

The Division considered the following alternatives to the proposed rule change:

- A. No changes: Currently, at least 58.4% of the discretionary funding cannot be contracted and expended on an annual basis (see Table 2). This is due to all agencies funded in FFY 1986 are no longer in existence. While, a potential benefit of no changes maybe staff time saved in completing the rule amendment process, this is not a viable option as North Carolina families and communities are not afforded the full benefits available through the Community Services Block Grant. Additionally, NC DHHS Division of Social Services would continue to revert unexpended portions of funding to the Federal Government.
- B. Fund over 90% of total allocation to eligible entities: Currently North Carolina allocates the minimum (90%) to CSBG eligible entities as required by the COATES Act. The COATS Act does not place a limit on the percent of the total allocation a state can allocate to eligible entities. North Carolina could eliminate the 5% of discretionary funding and increase the eligible entity allocation to 95 percent. This option would increase the allocation of 35 designated eligible entities that are contracted on an annual basis. However, eliminating the 5% discretionary allocation limits North Carolina's ability increase provision of training and technical assistance; increase capacity to implement federal priorities such as organizational standard and sound performance management practices; support local agencies leveraging additional resources to support low-income families and communities; and to support competitive and innovative approaches to service delivery designed to combat challenges associated with poverty. As an issue brief published by the National Association for State Community Service Programs acknowledges, "Discretionary funds allow states to support creative approaches tailored to the specific needs of their region and their community...these funds make the CSBG network more effective because they encourage innovative approaches and collaboration between state and local agencies."²
- C. Fund Limited Purpose Agencies re-certified as eligible agencies with the full discretionary allocation: The rules could be revised to allocate the 5% of discretionary funding to those agencies funded in FFY 1986 that remain in existence. This would eliminate the requirement to allot an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in FFY 1986. This option would potentially make \$300,000, or up to \$722,795, in SFY 2014-15 and about \$480,000 each fiscal year thereafter of additional funding available to three Limited Purpose Agencies and the North Carolina Commission of Indian Affairs. This

² National Association of State Community Service Programs. "The Community Service Block Grant: State Discretionary Spending – How Discretionary Resources Enhance and Support Anti-Poverty Efforts" Issue Brief by G. Knowlton. http://www.nascsp.org/data/files/csbg_publications/issue_briefs/moneybrief.pdf

would be a significant increase in funding to these entities compared to their previous CSBG allocations. It must be acknowledged, there is an inherent amount of risk with any program or agency receiving a large change (increase or decrease) in funding. Additionally, specifying only three agencies to receive funding through a non-competitive process limits the use and impact of funding.

APPENDIX I PROPOSED RULE CHANGES

10A NCAC 97B .0401 is proposed for amendment as follows:

10A NCAC 97B .0401 GENERAL PROVISIONS

Each applicant for programs funded under 10A NCAC 97C .0108(a)(1) ~~administered by the Office~~ shall provide citizens with an adequate opportunity for meaningful involvement on a continuing basis and for participation in the planning, implementation, evaluation and assessment of the program. The applicant shall:

- (1) provide adequate information to citizens;
- (2) hold a public hearing at the initial stage of the planning process;
- (3) publish a notice of intent to file an application prior to the governing board's approval, and subsequent submission of the application to the ~~Office~~ Division of Social Services;
- (4) allow citizen participation on substantive amendments in the program; and
- (5) provide an opportunity to comment on the applicant's performance.

Authority G.S. 143B-153; 42 USC 9901

10A NCAC 97B .0402 is proposed for amendment as follows:

10A NCAC 97B .0402 CITIZEN PARTICIPATION IN THE APPLICATION PROCESS

Each applicant for programs funded by under 10A NCAC 97C .0108(a)(1) ~~administered by the Office~~ shall develop and maintain procedures that meet the following requirements:

- (1) Solicit and respond in a timely and appropriate manner to reviews and proposals of citizens, particularly low-income persons, members of minority groups, and resident areas where activities are proposed. Applicants shall respond in writing to written citizen comments objecting to an application. The applicant shall consider written objections made only on the following grounds:
 - (a) The applicant's description of the needs, goals and objectives is plainly inconsistent with available facts and data.
 - (b) The activities to be, or being, undertaken are plainly inappropriate to meeting the needs, goals, and objectives identified by the applicant.
 - (c) The application does not comply with the requirements of this Chapter or other applicable laws and regulations.

Responses to the written objection shall be made within 10 calendar days of receipt of the citizen comment.

- (2) Provide technical assistance to facilitate citizen participation, where requested. The level and type shall be determined by the applicant.
- (3) Provide adequate notices of public hearings in a timely manner and in such a way as to make them accessible and understandable to all citizens. A notice of the public hearing shall be given once a week for two successive calendar weeks in the non-legal section of a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.
- (4) Schedule public hearings to obtain citizen views and to respond to citizen proposals at times and locations which permit broad participation, particularly by low income persons, members of minority groups, handicapped persons, and residents of project areas.
- (5) Conduct at least one public hearing at the initial stage of the planning process to allow citizens the opportunity to express views and proposals.
- (6) Publish a notice of intent to file an application, at least one time in the non-legal section of a newspaper, having general circulation in the area, no less than 10 calendar days prior to final approval by the recipient's governing board. The notice shall specify the time and place the governing board shall meet to consider adopting a resolution (as required by Rule .0203(2)(b) of this Subchapter) to approve the application. The notice shall contain a description of the activities to be undertaken and the amount of funds requested in the application.
- (7) Persons wishing to object to the approval of an application by the ~~Office~~ Division shall make such objection in writing. The ~~Office~~ Division will consider objections made only on the following grounds:
 - (a) The applicant's description of the needs, goals, and objectives is plainly inconsistent with available facts and data.
 - (b) The activities to be undertaken are plainly inappropriate to meeting the needs, goals, and objectives identified by the applicant.
 - (c) The application does not comply with the requirements of this Chapter or other applicable laws and regulations.
- (8) All objections shall include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with available facts and data, the data upon which the persons rely.

Authority G.S. 143B-153; 42 USC 9901

10A NCAC 97B .0403 is proposed for amendment as follows:

10A NCAC 97B .0403 CITIZEN PARTICIPATION IN THE PROGRAM AMENDMENT PROCESS

- (a) Each grant recipient funded under 10A NCAC 97C .0108(a)(1) shall respond to citizen objections and comments in the same manner as in Rule .0402(1) of this Section.
- (b) Amendments which require prior ~~Office~~ Division of Social Services approval also may require a public hearing. After determination by the ~~Office~~ Division that a public hearing is required, it shall be held in accordance with Rule .0402(3) and (4) of this Section.
- (c) The ~~Office~~ Division may determine that a hearing is required if a program is substantially changed by:
 - (1) A new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provision;
 - (2) A court decision changes the interpretation of a statute or regulation;
 - (3) The grant recipient proposes to add, significantly modify, or delete any project.

Authority G.S. 143B-153; 42 USC 9901

10A NCAC 97C .0104 is proposed for amendment as follows:

10A NCAC 97C .0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) Act. The Omnibus Budget Reconciliation Act of 1981, as amended, under which the Community Services Block Grant Program was established.
- (2) Community Action Agency (CAA). An agency officially designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and which was funded by the Office of Economic Services in fiscal year 1985 to administer a Community Services Block Grant anti-poverty project or any agency designated as such by the Governor or his designee and determined to be eligible by the Office, currently within NC Division of Social Services.
- (3) Community Services Block Grant. The state administered Community Services Block Grant Program (CSBG).
- ~~(4) Limited Purpose Agency. An agency funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating projects for a specific target population, such as senior citizens, or for a specific program area, such as economic development and which was funded by the Office in fiscal year 1982 to carry out similar specific and limited projects.~~
- ~~(4)(5)~~ Local Administering Agency. An agency funded by the Office to carry out programs in a single or multi-county area. Organizations that address the causes and effects of poverty in North Carolina. This includes Community Action Agencies and entities providing services related to capacity building activities, training and technical assistance, staff training and corrective actions.
- ~~(5)(6)~~ OCS. The Office of Community Services is established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering the program.
- ~~(6)(7)~~ Persons in poverty. For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons who fall below the poverty threshold established by the Bureau of Census, U.S. Department of Commerce. The number of persons in poverty will be based on the most recent available census data. For the purpose of program eligibility, persons in poverty is defined as the persons who fall below the poverty guidelines established by the Office of the U.S. Office of Management and Budget.
- ~~(7)(8)~~ Quarter. Each three months during the life of a grant agreement with a grant recipient.
- ~~(8)(9)~~ State Plan. The plan which sets forth how the State of North Carolina will use the funds allocated under ~~G~~CSBG.

Authority G.S. 143B-153; 42 USC 9901

10A NCAC 97C .0106 is proposed for amendment as follows:

10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS

Eligible grant recipients for CSBG funds include:

- (1) community action agencies as defined in (2) of Rule .0104 of this Section; in any geographic area of a state not presently served by an eligible entity, the Governor may decide to serve such a new area by:
 - (a) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;
 - (b) if ~~not~~ no existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or
 - (c) ~~where no existing eligible entity requested to serve the new area decides to do so,~~ designating any existing eligible entity, any organization which has a board meeting the requirements of ~~Section 675(e)(3)~~ 42 U.S.C. 9910 or any political sub office of the state to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of ~~Section 675(e)(3)~~ 42 U.S.C. 9910 or a political sub office of the state to serve the new area shall qualify such organization as a eligible entity.
- (2) ~~organizations serving seasonal or migrant farmworkers; and organizations that address the causes and effects of poverty in North Carolina~~
- (3) ~~limited purposes agencies as defined in (6) of Rule .0104 of this Section.~~

Authority: G.S. 143B-153, 42 USC 9910

10A NCAC 97C .0108 IS PROPOSED FOR AMENDMENT AS FOLLOWS:

10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS

(a) Funds ~~allocated~~ available to North Carolina under the CSBG Program will be ~~used in~~ allocated ~~and in each subsequent federal fiscal year~~ as follows:

- (1) ~~No less than Ninety percent of the funds to make grants to those allocated for contracting with~~ eligible grant recipients as defined in Rule ~~.0106 (a).0104(2)~~ of this Section which are re-certified as eligible agencies each fiscal year by the ~~Office~~ Division of Social Services. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:
 - (A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.
 - (B) However, no eligible agency shall receive less than whichever is higher:
 - (i) An allocation of one hundred twenty thousand dollars (\$120,000), or
 - (ii) Eighty percent of the eligible agency's Federal Fiscal Year 1982 allocation, if the agency has maintained designation for all counties it was designated in Federal Fiscal Year 1982 ~~whichever is higher~~
- (2) Five percent of the funds will be used by the ~~Office~~ Division for administration of the CSBG program.
- (3) The remaining five percent of the funds will be allocated in accordance with the current State CSBG Plan strategy which will be made publicly available. The Office Division shall award no more than 40% of the total CSBG funds available under this allotment to Local Administering Agencies as defined in Rule .0104 of this Section for activities that may include: to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the Office. The Office shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.
 - (A) providing training and technical assistance to those entities in need of such training and assistance;
 - (B) coordinating State-operated programs and services, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other funded organizations, to ensure increased access to services provided by the State of North Carolina or local agencies;
 - (C) supporting statewide coordination and communication among eligible entities;
 - (D) analyzing the distribution of funds made available in this Rule to determine if such funds have been targeted to the areas of greatest need;
 - (E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;
 - (F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;
 - (G) supporting State charity tax credits
 - (H) supporting other activities, consistent with the purposes of this Rule.

Any funds granted to Local Administering Agencies under this subsection shall be awarded through a prescribed selection process, to include a review body established by the Division. Funds not awarded through the prescribed selection process will be distributed in accordance with subsection (a)(1) of this Rule.

(b) ~~Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the Office Division within 60 days after the termination of the grant agreement.~~

(c) Supplemental CSBG Grants. The preceding paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the ~~Office~~ Division in a manner not inconsistent with federal guidelines and conditions on supplemental appropriations. The ~~Office~~ Division has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.

(d) Any unexpended allotment of CSBG funds from ~~previous-a prior~~ year's grants shall be allocated to ~~each~~ eligible entities in a manner prescribed by the Division ~~CSBG grant recipient~~ for the following purposes:

- (1) to assist in the implementation of special statewide initiatives, and
- (2) for one-time expenditures to enhance local programs.

~~Ninety percent of these funds will be distributed to Community Action Agencies based on the ratio of persons in poverty in the county or counties served by the Community Action Agency compared to the number of persons in poverty in the total area served by all eligible Community Action Agencies. Ten percent of these funds will be distributed to those Limited Purpose Agencies as defined in Rule .0104 of this Section on an equal basis.~~

Authority G.S. 143B-153, 42 USC 9907

10A NCAC 97C .0109 is proposed for amendment as follows:

10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF PRIVATE GRANT RECIPIENTS

(a) Each ~~eligible private~~ grant recipient funded under 10A NCAC 97C .0108(a)(1) must have a board of directors consisting of at least 15 members and not more than 51 members.

(b) The board of directors of private grant recipients funded under 10A NCAC 97C .0108(a)(1) shall be constituted so as to assure that:

- (1) one-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement;
- (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and
- (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

(c) All committees of the board of directors of private grant recipients shall fairly reflect the composition of the board.

(d) In addition to the general powers granted under its state charter, the board of directors of the private grant recipients must possess the following specific powers:

- (1) to appoint the executive director of the agency;
- (2) to determine major personnel, organization, fiscal, and program policies;
- (3) to determine overall program plans and priorities for the agency, including provisions for evaluating progress;
- (4) to make final approval of all program proposals and budgets;
- (5) to enforce compliance with all conditions of the ~~Office's~~ Division's grants; and
- (6) to oversee the extent and the quality of the participation of the poor in the program of the agency.

Authority G.S. 143B-153; 42 USC 9907; 42 USC 9910

10A NCAC 97C .0111 is proposed for amendment as follows:

10A NCAC 97C .0111 CITIZEN PARTICIPATION

(a) Each grant recipient funded under 10A NCAC 97C .0108 (a)(1) is required to establish citizen participation policy and procedures. Grant recipients are required to hold public hearings to meet the requirements of Rule .0401(5) of Subchapter 97B only during the initial planning when a new multi-year plan is to be developed.

(b) The following special requirements on the Community Anti-Poverty Plan (application for CSBG funds) shall be met by each grant recipient:

- (1) Community action agencies funded under Rule .0108(a)(1) of this Subchapter shall meet the following requirements:
 - (A) Submit their Community Anti-Poverty Plan to their local board(s) of county commissioners in each county served by the agency for their review and comment prior to submission to the ~~Office~~ Division. County commissioners will be given 30 days to comment on the application.
 - (B) Hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to the ~~Office~~ Division.
- (2) ~~Limited purpose agencies shall meet the public review requirements by submitting a copy of their plan to the State Clearinghouse, Department of Administration for review. Any comments from the State Clearinghouse shall be submitted to the Office by the applicant within 10 working days of receipt of the Work Plan. Grant recipients funded under Rule .0108 (a)(3) of this Subchapter shall meet the public review requirements by submitting a copy of their plan to the review body established by the Division.~~

(c) Each grant recipient is responsible for establishing special procedures to ensure that the poor are able to participate meaningfully in the decisions and activities of the grant recipient. These procedures shall include provisions for:

- (1) Advance notice of and the agenda (an outline of matters to be considered) for any board or committee meetings. These shall be provided individually to all members of the board and/or committees in writing at least five days before the meeting. In addition, notices should be given to the local public media and posted in all the grant recipient's neighborhood and/or community centers.
- (2) Adequate information about standards of program effectiveness. This information shall be given to the representatives of the poor to permit them to plan for and evaluate agency programs and to set priorities for the use of funds and other resources. Evaluations of programs and their operation shall consider the views of the poor on the board, as well as the views of program participants and area residents.
- (3) Adequate information and training for board members about their functions, duties, and responsibilities and the issues which will come before them. This will permit board members to make the fullest possible contribution to the work of the board. In this connection, the by-laws of the agency shall be distributed and fully explained to members of the board.
- (4) Developing effective involvement of the poor in each major program. This involvement may be in the form of a program advisory committee or neighborhood council made up of target area residents. The committee and council may advise the grant recipient on program priorities, participate in the development of pertinent parts of the grant application, review and comment on programs and policies, and participate in the evaluation of programs.
- (5) The grant recipient in the planning process of its Anti-Poverty Plan, shall annually hold a sufficient number of meetings to ascertain from low-income residents their suggestions, recommendations, and priorities for eliminating poverty. The grant recipient shall provide adequate information and training to the low-income residents to ensure their effective and meaningful involvement in this planning process. The recommendations, suggestions, and priorities of the low-income residents will be reviewed by the board of directors in its determination of programs to be implemented by the grant recipient, and will be maintained by the grant recipient for public inspection.

Authority G.S. 143B-153; 42 USC 9901; 42 USC 9907